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CHARLES ELMORE C

IN THE

Supreme Court of the United States,

OCTOBER TERM, 1930.

No. 378.

STANDARD OIL COMPANY (INDIANA),
STANDARD OIL COMPANY (NEW JERSEY),
STANDARD DEVELOPMENT COMPANY,
THE TEXAS COMPANY,
GASOLINE PRODUCTS COMPANY, INC., *et al.*,
Appellants,

v.

UNITED STATES OF AMERICA,
Appellee.

MOTION OF APPELLANTS TO ADVANCE.

THE BALLOU PRESS NEW YORK

IN THE

Supreme Court of the United States,

OCTOBER TERM, 1930.

STANDARD OIL COMPANY (INDIANA), STANDARD OIL COMPANY (NEW JERSEY), STANDARD DEVELOPMENT COMPANY, THE TEXAS COMPANY, GASOLINE PRODUCTS COMPANY, INC., *et al.*, Appellants, v. UNITED STATES OF AMERICA, Appellee.	No. 378.

MOTION OF APPELLANTS TO ADVANCE.

Come now the appellants in the above entitled cause and move that this case be advanced for an early hearing, and in support of their motion make the following brief statement of the matter involved and the reasons relied upon for the advancement.

This is a proceeding in equity by the United States to enjoin alleged violations of Sections 1 and 2 of the Sherman Anti-Trust Act. It was expedited below pursuant to the provisions of Section 28 of Title 15 U. S. C. A. which reads in part as follows:

> "In any suit in equity brought in any district court of the United States under [the Sherman Act] * * * the Attorney General may file with the clerk of such court a certificate that, in his opinion, the case is of general public importance, a copy of which shall be immediately furnished by such clerk to each of the circuit judges of the circuit in which the case is pending. Thereupon such

case shall be given precedence over others and in every way expedited, and be assigned for hearing at the earliest practicable time, before not less than three of the circuit judges of said circuit, if there be three or more; * * *"

Standard Oil Company (Indiana), The Texas Company, Gasoline Products Company, Inc., Standard Oil Company (New Jersey) and Standard Development Company, its patent holding subsidiary, hereinafter referred to as the primary defendants, each owned or controlled certain patents for processes and apparatus for producing gasoline by what is known as pyrogenetic cracking, i.e. application of heat and pressure to crude oil. Each of the primary defendants contended that the patents of the others infringed its own patents. Prolonged and destructive patent litigation threatened. To obviate this situation and to dissolve their patent conflicts the primary defendants executed certain cross licensing agreements, hereinafter referred to as primary agreements, with one another.

Each of the primary defendants, acting independently, granted licenses under its patents relating to pyrogenetic cracking to refiners in different parts of the country.* More than 60 such licenses were granted. Hereafter these agreements and licenses are referred to as secondary agreements, and the licensees as secondary defendants.

The petition alleged that these agreements were in restraint of trade and that by means of these agreements the primary defendants have monopolized, or have attempted to monopolize, trade and commerce in cracked gasoline, all in violation of Sections 1 and 2 of the Sherman Anti-Trust Act.

After the petition was filed the Attorney General duly filed a certificate that the case was of general public importance, and it was thereupon expedited pursuant to the provisions of Section 28 of Title 15, U. S. C. A., and assigned

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* Most of these licenses were granted before the licensor became a party to any of the primary agreements.

for hearing before three of the circuit judges of the Seventh Circuit Court of Appeals. Because it appeared that considerable time would be necessary for the taking of evidence, the Expedition Court, upon the motion of the United States, referred the cause to a Special Master. After a full hearing on the merits the Special Master found for the defendants and as a conclusion of law stated:

> "The equities in this cause are with the defendants and the Petition and Supplemental Petition in this cause should be dismissed for want of equity."

The United States duly filed exceptions to the Special Master's report, and following a hearing upon such exceptions the majority of the Expedition Court held that the United States was entitled to a decree as to certain of the issues in the cause.

The primary and fundamental question involved is whether the primary and secondary agreements (79 contracts) constitute agreements in restraint of trade, and whether by means of these agreements the primary defendants have monopolized or attempted to monopolize trade and commerce in cracked gasoline.

The appellants have moved with all dispatch to obtain an early hearing by this Court. The decree was entered on January 20, 1930, and on March 10, 1930, an appeal to this Court was allowed by the Expedition Court. The record before the Court below was voluminous, containing over 10,000 printed pages. Compliance with Equity Rule 75 (b) made it impossible for the appellants to file the record in this Court before the close of the October, 1929, term. The appellants ask for an early hearing because they believe the public interest requires a prompt determination by this Court of the questions involved. Since the entry of the decree counsel for all the appellants and counsel for the Government have cooperated to the utmost in expediting the preparation of the record for filing in this Court. These efforts will have been in vain unless this motion be granted.

This country's gasoline requirements are made up in large part of straight run gasoline and cracked gasoline. A large production of cracked gasoline is an almost indispensable factor in providing an adequate supply of motor fuel for the country. Relying upon the validity of the primary agreements the primary defendants have invested large sums of money in equipment for cracking gasoline. All of the secondary defendants have made heavy investments in building plants to come under the patents licensed and many of them, relying upon the validity of licenses obtained from the primary defendants, have paid in full for such licenses. The decree of the lower court has created the utmost confusion as to the relative rights of the owners of these cracking processes and those licensed under them.

The United States has already alleged that this is a case of general public importance, because it filed a certificate to that effect in the Court below and this case was thereupon expedited pursuant to the provisions of Section 28 of Title 15, U. S. C. A.

Wherefore appellants pray that the case be advanced upon the calendar and assigned for hearing at an early date.

Respectfully submitted,

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